

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

MICHAEL DON POGUE,

Petitioner,

v.

DIRECTOR, TDCJ-CID,

Respondent.

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Civil Action No. **3:20-CV-175-L-BT**

AMENDED ORDER

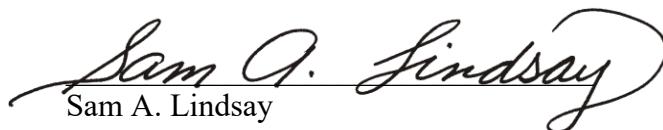
On July 10, 2023, the Findings, Conclusions and Recommendation of the United States Magistrate Judge (“Report”) (Doc. 33) was entered, recommending that the court find, based on the record in this case, that Petitioner’s appeal is not taken in good faith and deny his Motion to Proceed In Forma Pauperis (Doc. 32) on appeal. Petitioner filed objections to the Report in which he disagrees with the magistrate judge’s determination that any appeal by him is not taken in good faith because he believes that this is a matter of opinion in which judges might disagree. He also objects for purposes of sparing the Fifth Circuit of having to decide a motion by him to proceed *in forma pauperis* on appeal.

Notwithstanding Petitioner’s objections to the contrary, the court agrees with the magistrate judge that any appeal in this case by him would not be taken in good faith. Thus, having considered the Motion to Proceed In Forma Pauperis (Doc. 32), the file, record in this case, and Report, and having conducted a de novo review that portion of the Report to which objection was made, the court determines that the findings and conclusions of the magistrate judge are correct, and **accepts** them as those of the court. The court, therefore, **overrules** Petitioner’s objections and finds, based on its familiarity with the record in this case and the reasons stated in the Report, that

Petitioner's appeal is not taken in good faith. Accordingly, Petitioner's Motion to Proceed In Forma Pauperis (Doc. 32) is **denied**.

Although the court has denied Petitioner's request to proceed *in forma pauperis* on appeal, he may challenge that finding by filing a separate motion to proceed *in forma pauperis* on appeal with the Clerk of Court for the United States Court of Appeals for the Fifth Circuit within 30 days from the date of this order. *See Baugh*, 117 F.3d at 202; *see also* Fed. R. App. P. 24(a)(5).

It is so ordered this 8th day of August, 2023.


Sam A. Lindsay
United States District Judge